

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hilary Hudson	Team: Team # 4	CCRB Case #: 200707632	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/26/2007 12:20 AM	Location of Incident: in the v/o § 87(2)(b) in front of § 87(2)(b) 77th Precinct stationhouse	Precinct: 77	18 Mo. SOL 11/26/2008	EO SOL 11/26/2008	
Date/Time CV Reported Wed, 05/30/2007 12:16 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 05/30/2007 12:16 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Daniel Diaz	28347	940091	077 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Georgina Gonzalez	05276	896880	077 PCT
2. POM Anthony Vitale	21200	926263	077 PCT
3. POM Peter Stark	26264	926166	077 PCT
4. POM Danny Campbell	12016	938155	077 PCT
5. POM Felix Medina	06282	939008	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Diaz	Abuse: PO Daniel Diaz questioned individuals in the vicinity of § 87(2)(b) in Brooklyn.	
B.POM Daniel Diaz	Abuse: PO Daniel Diaz stopped § 87(2)(b) in the vicinity of § 87(2)(b) in Brooklyn.	
C. Officers	Force: Officers used physical force against § 87(2)(b) outside of § 87(2)(b) in Brooklyn.	
D. An officer	Force: An officer used physical force against § 87(2)(b) at the 77th Precinct stationhouse.	

Synopsis

On May 26, 2007, at approximately 12:20 AM, § 87(2)(b) and his three unidentified friends were standing outside in front of § 87(2)(b) in Brooklyn when three officers, PO Daniel Diaz, PO Felix Medina, and PO Danny Campbell, were driving by in a marked police car. The officers stopped, exited, and PO Diaz proceeded to question § 87(2)(b)'s friends [Allegation A] and ask § 87(2)(b) for his identification [Allegation B]. § 87(2)(b) left the scene and proceeded over to his building, located at § 87(2)(b). Outside of § 87(2)(b) officers allegedly used physical force against § 87(2)(b) an elderly man who was in front of the building [Allegation C]. § 87(2)(b) went inside the building and was eventually apprehended and taken to the 77th Precinct for arrest processing. At the precinct, an officer allegedly dragged § 87(2)(b) [Allegation D]. § 87(2)(b) was charged with § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

On May 30, 2007, § 87(2)(b) filed his complaint in person with the CCRB (Enclosure 5a-d). He was interviewed at the CCRB that same day and showed the undersigned investigator marks on both of his wrists, a scrape on the palm of his left hand, and road rash on his left forearm that he allegedly received from the incident (Enclosure 6a-e). On May 26, 2007, § 87(2)(b) contacted IAB and filed his complaint on behalf of § 87(2)(b). IAB referred the complaint to the CCRB on May 31, 2007 and because it pertained to § 87(2)(b)'s complaint it was closed as a duplicate. § 87(2)(b) is a § 87(2)(b)-year-old Black male, five feet, seven inches tall, one hundred and ninety pounds, has black hair and eyes, and is unemployed.

At approximately 12:20 AM on May 26, 2007, § 87(2)(b) stated that he was standing in front of § 87(2)(b) and was talking on his cell phone. Earlier in the night he celebrated his birthday in downtown Brooklyn and drank two Long Island iced teas. Other people were having a party at § 87(2)(b) and § 87(2)(b) had one daiquiri there. He stated that there are three buildings with access to the backyard and about forty to fifty people were walking back and forth between the front and back yards. Other people were scattered around, near their cars, getting ready to go home, when a marked police car pulled up.

Three police officers exited the car and walked up to § 87(2)(b) and three of his unidentified friends. § 87(2)(b) identified by name PO1, determined through investigation to be PO Daniel Diaz, and described him as a young Hispanic male with square framed glasses, 6'0," and 190 lbs. § 87(2)(b) also identified by name PO2, who was determined through investigation to be PO Danny Campbell, and described him as a Black male. § 87(2)(b) could not describe the third officer, PO3, but he was identified through the investigation as PO Felix Medina.

PO Diaz asked § 87(2)(b) and his three friends, "What's going on guys? You all been drinking?" § 87(2)(b) told PO Diaz that they had been drinking earlier. PO Diaz told § 87(2)(b) "I just saw you with a cup of liquor." § 87(2)(b) said, "You ain't seen me drinking shit!" PO Diaz said, "Oh, you're gonna tell me I didn't see?" § 87(2)(b) said, "Man, you're fucking lying right now." § 87(2)(b) stated that he was not being loud but was being "as direct with them as possible." He described himself as "a little intoxicated."

§ 87(2)(b)'s mother, § 87(2)(b) walked over from their building across the street § 87(2)(b) and asked the officers why they keep harassing and searching § 87(2)(b). § 87(2)(b) then put his cell phone in his left jeans pocket and PO Diaz unsnapped his holster and grabbed for his gun, but § 87(2)(b) was unaware if PO Diaz removed his gun. § 87(2)(b) asked PO Diaz, "What are you gonna

do, shoot me or something?” He and PO Diaz then “exchanged words.” PO Diaz used unspecified curse words at § 87(2)(b) and asked him for his ID. PO Diaz, PO Campbell, and PO Medina circled around § 87(2)(b). § 87(2)(b) started backing up when one of § 87(2)(b)’s unidentified female friends grabbed him from behind by his T-shirt and told him to just go home. As he was walking away, § 87(2)(b) told the officers he was tired of the harassment. Other civilians, including people in from the surrounding buildings, were yelling “Get the fuck out of here!” at the police.

The officers followed § 87(2)(b) across the street to his mother’s building, § 87(2)(b). According to § 87(2)(b) PO Diaz, PO Campbell, and possibly PO Medina, were running and chasing him behind his building. However, § 87(2)(b) stated that he never ran towards his building and neither did the officers, but clarified that the officers walked quickly. § 87(2)(b) followed behind the officers. A woman unknown to § 87(2)(b) was leaving § 87(2)(b) and held the door open for § 87(2)(b) and his female friend and PO Diaz, PO Campbell, and PO Medina followed them in. While in the hallway of the building, PO Campbell grabbed § 87(2)(b) by his right arm and placed one arm in handcuffs. § 87(2)(b) entered the building by that time. § 87(2)(b) a § 87(2)(b)-old man, was entering the building when additional officers that § 87(2)(b) could not describe rushed past § 87(2)(b) to get inside and knocked § 87(2)(b) to the ground, causing § 87(2)(b) to hit his head.

§ 87(2)(b) was in the hallway, asking the officers why they were arresting § 87(2)(b). One officer told her to “watch out.” § 87(2)(b) stated that he saw an officer push § 87(2)(b) “straight into the wall” and “practically knocked her over.” He did not know which officer did that but said “it turned into a competition” and that he and the officers started fighting because he was trying to defend his mother. § 87(2)(b) was handcuffed but tried unsuccessfully to kick the officers. PO Campbell pushed § 87(2)(b) to the ground, but later § 87(2)(b) said that he fell and PO Campbell picked him up off the ground. Officers were trying to take people’s cell phones because they were recording it. § 87(2)(b)’s friend § 87(2)(b) a police officer from § 87(2)(b) saw the incident. When § 87(2)(b) identified himself as a cop he was told, “This doesn’t have anything to do with you, mind your business.” § 87(2)(b) estimated that 40-50 officers were in the hallway during the scuffle. He stated that a female named § 87(2)(b) witnessed the incident.

§ 87(2)(b) was taken to the 77th Precinct, where an officer who he could not describe dragged him while he was still handcuffed. He could not provide any specifics about this, however. § 87(2)(b) was taken to central booking, where his charge was changed to a violation and he was released.

Results of Investigation

§ 87(2)(b) (Victim)

§ 87(2)(b) was interviewed at the CCRB on July 16, 2007 (Enclosure 9a-d). On May 26, 2007, at approximately 12:20 AM, § 87(2)(b) was with § 87(2)(b) at a cookout in the driveway of § 87(2)(b) in Brooklyn. He did not believe § 87(2)(b) drank any alcoholic beverages that night. § 87(2)(b) and § 87(2)(b) left the cookout and walked across the street to their building, § 87(2)(b). Before crossing the street, § 87(2)(b) did not see § 87(2)(b) or police cars, nor did he hear any yelling.

Once he reached § 87(2)(b) § 87(2)(b) passed through the gate, up one stair that led to the first entrance door, and up three stairs that led to the second entrance door. § 87(2)(b) was approximately six feet behind him and had not passed through the gate leading to the building. A female named § 87(2)(b) who lives in apartment § 87(2)(b) at § 87(2)(b) exited the building.

§ 87(2)(b) had not opened the second door, which is made of glass, but saw § 87(2)(b) was handcuffed in the hallway. The hallway is about six feet wide by one hundred feet long, so there was “no way” forty to fifty officers were there. There were two officers at § 87(2)(b)’s sides, a third officer searching his pockets, and a fourth officer standing behind him. § 87(2)(b) could not describe those officers in the hallway except to say they were in uniform. However, § 87(2)(b) also said during the interview that “couldn’t really see” what was going on in the hallway.

Two patrol cars arrived at the scene and four more uniformed officers went inside the building. As those four officers ran into building, § 87(2)(b) either fell or was knocked down on purpose by the officers. While he was still on the ground, two uniformed male officers grabbed each of his shoulders and arms from behind and one white male officer in uniform (5'11, stocky) grabbed both of his feet. The officers dragged § 87(2)(b) down the three steps; about ten feet to first entrance door, down the first step, and threw him on the ground outside.

§ 87(2)(b) heard § 87(2)(b) say that she wanted to get her keys from § 87(2)(b) but § 87(2)(b) did not know how she knew § 87(2)(b) was inside the building. The officers told § 87(2)(b) to “get out of here.” § 87(2)(b) did not hear her ask, “Why are you fucking with my son?” or make reference to them shooting § 87(2)(b) “41 times.” § 87(2)(b) stood up and saw officers at the first entrance door push § 87(2)(b) back by her shoulders to keep her from going into the building. He could not describe those officers.

By that time, a crowd of about twelve people gathered outside, including § 87(2)(b) two females named § 87(2)(b) and § 87(2)(b) and other men that § 87(2)(b) does not know. § 87(2)(b) did not believe that 911 was called and could not remember speaking about the incident to 911 or Internal Affairs on a cell phone. He was unsure if § 87(2)(b) called 911.

After about five or ten minutes, officers brought § 87(2)(b) outside and tried to put him inside one of the two patrol cars. § 87(2)(b) “scuffled” and resisted when being placed in the car, so the officers had to push him inside it. He did not hear § 87(2)(b) curse or make reference to officers shooting him “41 times.” § 87(2)(b) did not remember seeing any Black female officers or unmarked police cars on scene and he denied an ambulance arriving at the location. § 87(2)(b) then went inside and up to his apartment. At approximately 3:00 AM, two officers, a Hispanic female (identified through investigation as Sgt. Georgina Gonzalez) and a Black male, went to § 87(2)(b)'s apartment to ask if he was injured. § 87(2)(b) told the officers that he was “just bruised” on his back, legs, and knees. § 87(2)(b) received no medical treatment for his injuries, which were a sore back, a black mark across the middle part of his lower back, scars on his ankles, and a sore right buttock, as a result of being dragged and thrown to the ground.

§ 87(2)(b) (Witness)

§ 87(2)(b) provided a phone statement on June 14, 2007 (Enclosure 7) and was interviewed at the CCRB on June 28, 2007 (Enclosure 8a-e). She stated that on May 26, 2007, at approximately 12:20 AM, she was with § 87(2)(b) and more than twenty other people, but not § 87(2)(b) at a cookout in the driveway of § 87(2)(b). § 87(2)(b) was drinking gin and water but could not remember how many she drank that night. § 87(2)(b) saw marked police cars parked in front of § 87(2)(b). She did not see any officers standing in front of § 87(2)(b) talking to people. § 87(2)(b) and § 87(2)(b) walked across the street to their building, number 1280. She denied talking to any officers or seeing or hearing § 87(2)(b) before walking across the street.

§ 87(2)(b) and § 87(2)(b) walked up the stoop of § 87(2)(b) and § 87(2)(b) started to open the first entrance door. All of a sudden, police officers were running into the hallway and knocked down § 87(2)(b). § 87(2)(b) did not see which officer knocked down § 87(2)(b) and she was not sure if it was done intentionally. § 87(2)(b) believed that she was pushed on the steps leading to the second door because she got a small cut near her eye from her eyeglasses. The officers who knocked down § 87(2)(b) went into the hallway; however, she later stated that neither she nor those officers got inside the hallway because the second door was locked.

§ 87(2)(b) eventually saw that the officers were after § 87(2)(b). She was unsure how many officers were in the hallway, but said that there were males and females in uniform and plainclothes. § 87(2)(b) could not describe any officer in detail. § 87(2)(b) did not hear any yelling coming from the hallway. As an unknown number of officers were trying to handcuff § 87(2)(b) she heard some of § 87(2)(b)'s friends at the first door shout, “What did he do? What did he do?” She could not see if § 87(2)(b) was complying or resisting and did not see if § 87(2)(b) kicked at any officers.

§ 87(2)(b) was eventually placed in handcuffs and taken away, but she did not see this because she was trying to get into her apartment. Because § 87(2)(b) had her keys, she went to the stationhouse at least 20 minutes after § 87(2)(b) was taken away. When she arrived at the stationhouse, she was placed in a holding cell before being released with a summons for § 87(2)(b).

Attempts to Interview Additional Victims and Witnesses

§ 87(2)(b) stated that he was with three friends while standing in front of § 87(2)(b) but he would not provide the names of the friends. Stop, question, and frisk reports were not completed for the three males and absent any identifying information from § 87(2)(b) the CCRB was unable to contact them.

§ 87(2)(b) a witness to the incident, called 911 at approximately 12:45 AM on May 26, 2007 (Enclosure 4a-c). § 87(2)(b) stated that § 87(2)(b) got “beat up” by the police. When § 87(2)(b) was reached via telephone on June 14, 2007, he stated that he did not want to participate in the complaint and thus did not want to provide a statement about the incident (Enclosure 30a). A final voice message was left for § 87(2)(b) on August 16, 2007, but he did not contact the CCRB.

§ 87(2)(b) identified § 87(2)(b) as a witness to the incident and provided § 87(2)(b)'s address and telephone number. § 87(2)(b)'s telephone was disconnected on August 24, 2007 and August 29, 2007. Letters were mailed to § 87(2)(b) on August 24, 2007 and August 30, 2007, and neither was returned by the U.S. Post Office. As of the writing of this report, § 87(2)(b) has not contacted the CCRB.

§ 87(2)(b) also identified § 87(2)(b) as another witness and provided her address. A telephone number could not be obtained for § 87(2)(b). Letters were mailed to her address on August 23, 2007 and August 30, 2007. The letters were not returned by the U.S. Post Office and as of the writing of this report; § 87(2)(b) has not contacted the CCRB.

§ 87(2)(b) said his friend § 87(2)(b) and a female named § 87(2)(b) were witnesses to the incident, and § 87(2)(b) stated that § 87(2)(b) was also a witness. However, because § 87(2)(b) and § 87(2)(b) could not provide the CCRB with any of their contact information, they could not be contacted by the CCRB.

Officer Identification

Sprints for the incident show that the 77th Precinct suppression auto, in car number 1276, was the first vehicle at the scene, followed by the 77th Precinct robbery auto, and later the 77th Precinct patrol supervisor (Enclosure 24a-d). The 77th Precinct Roll call from tour 1 on May 26, 2007 indicates that PO Daniel Diaz, PO Danny Campbell, and PO Felix Medina were the three officers assigned to the suppression team, operating in vehicle number 1276 (Enclosure 25a-c). PO Peter Stark and PO Anthony Vitale were assigned to the robbery auto and Sgt. Georgina Gonzalez was the patrol supervisor and she was partnered with PO Bernard McCaffrey. § 87(2)(b) identified PO Diaz and PO Campbell by name and accurately described them as a 6'0" Hispanic male with glasses and a Black male, respectively. The officers who allegedly used force against § 87(2)(b) could not be unidentified because § 87(2)(b) and § 87(2)(b) could not describe what the officers looked like and none of the officers interviewed admittedly used force against § 87(2)(b). The officer who § 87(2)(b) alleged dragged him at the 77th Precinct stationhouse could not be identified because § 87(2)(b) was unable to describe this officer. § 87(2)(b) and § 87(2)(b) did not view photo arrays because they could not provide any descriptions of those officers.

Officer Statements

PO Daniel Diaz, PO Felix Medina, and PO Danny Campbell

PO Campbell's memo book: 2429: 5 males stopped opposite § 87(2)(b) for 10-125 open container. 2441: 10-92 § 87(2)(b) for § 87(2)(b) § 87(2)(b) and 4 other companions drinking laze in front of § 87(2)(b). When I approached deft became irate and began to ask if I was going to shoot him 41 times. By this time the deft's mother [came] and said “Why are you fucking with my son. Are you

going to shoot my son 41 times.” At that time the deft began to lung (sic) forward at a/o and made threats at a/o that “I am going to fuck one of you officers up.” At this time a crowd began to ensue. The deft then began to walk away from a/o into § 87(2)(b). Then the deft was told by a/o he was arrested. The deft began to resist by tucking his arms in. By this time the crowd grew larger and poured into § 87(2)(b). In the process of cuffing him I was struck by his mother in the chest and face. 0229: 10-96 discon § 87(2)(b) @ 77th PCT. 0239: Returned keys and cell phone to perp’s mother, § 87(2)(b) X property consisted of cell phone and keys (Enclosure 10a-b).

PO Danny Campbell, PO Felix Medina, and PO Daniel Diaz were interviewed at the CCRB on November 19, 2007, December 7, 2007, and January 31, 2008, respectively (Enclosures 14a-c, 16a-b, and 12a-c). On May 26, 2007, they worked the hours of 2200x0635 and were assigned to suppression. They were dressed in uniform and were assigned to a marked RMP. PO Medina and PO Campbell had no memo book entries regarding the incident. At approximately 12:20 AM, PO Diaz, PO Medina, and PO Campbell were on patrol when they observed a group of 3 to 5 males standing outside in front of § 87(2)(b) in Brooklyn. PO Diaz said he saw § 87(2)(b) pouring alcohol from a bottle into his cup as the officers drove by. The other men with § 87(2)(b) had cups, too. PO Medina said that § 87(2)(b) and his friends were drinking beers but PO Campbell said that there were open containers of alcohol with plastic cups over the tops on the ground by their feet.

The officers pulled over, exited the RMP, and approached § 87(2)(b) and his friends. PO Diaz said that the officers asked the men for identification and § 87(2)(b) was the only one who refused to provide it, saying, “I’m sick of you officers fucking with me.” PO Diaz asked him again for identification but § 87(2)(b) would not give it. PO Medina said that the officers asked the men what was in the containers and when the men said it was alcohol, the officers asked the men for their identification. § 87(2)(b) refused to give his, even though his friends did. PO Campbell stated that the officers asked § 87(2)(b) and his friends why they were standing in front of the building, but the men did not respond. PO Campbell said that they then asked to whom the bottles belonged and asked for identification, although none of the men complied. § 87(2)(b) appeared to be intoxicated to PO Medina, but not to PO Diaz. Although PO Diaz thought that § 87(2)(b)’s friends were summonsed at the scene, PO Medina stated that none of § 87(2)(b)’s friends received summonses because the officers were focused on § 87(2)(b).

According to PO Diaz, § 87(2)(b) “comes out of nowhere” after about 2 or 3 minutes and asked PO Diaz, “Why are you fucking with my son?” PO Campbell also saw § 87(2)(b) come over and heard her say words to that effect. PO Diaz asked her, “Excuse me, may I ask who you are?” § 87(2)(b) replied, “I’m his fucking mother.” PO Diaz told § 87(2)(b) that her son had been drinking in public and may be receiving a summons for doing so. She replied, “I’m sick of you cops fucking with him...all you guys do... what are you going to do, shoot my son 41 times?” § 87(2)(b) then states, “Yeah, whatcha gonna do, shoot me 41 fucking times?” § 87(2)(b) then lunged at PO Diaz, PO Campbell, and PO Medina and told them, “I’m gonna fuck one of you officers up, especially you in the glasses [PO Diaz].” § 87(2)(b) was “squaring up,” described as putting his hands up to his chest and closing his hands into fists, and was “dancing around like Mohammed Ali.” § 87(2)(b) was also yelling loudly.

A crowd of about 40 to 100 people began to gather, “the whole block,” in PO Campbell’s opinion. One of the officers put a 10-85 over the radio and other officers from the 77th Precinct and possibly the 79th Precinct responded. PO Medina said that PO Anthony Vitale was there, and PO Diaz remembered seeing Sgt. Georgina Gonzalez, but they could not specify when these officers arrived. § 87(2)(b) ran across the street, alone, and into his building, § 87(2)(b). PO Diaz and PO Campbell said that the crowd boxed the officers in and the officers had to maneuver around the crowd in order to go after § 87(2)(b). The crowd, including § 87(2)(b), followed § 87(2)(b) and the officers. PO Medina said that he (PO Medina) and other officers from the 77th Precinct stayed back in an attempt to prevent the crowd from interfering with § 87(2)(b)’s arrest.

According to PO Diaz, § 87(2)(b) has a set of stairs leading up to the first door to the building and then there is a vestibule area that measures approximately 6 feet by 50 feet. There is a second set of stairs inside the vestibule that leads up to the door to the building’s hallway. § 87(2)(b) was already inside of § 87(2)(b) and someone who was leaving the building let PO Diaz inside. Although PO Medina

denied going into the building until after § 87(2)(b) was handcuffed, PO Campbell said that he (PO Campbell) and PO Medina entered the building because the electronic lock was broken and observed § 87(2)(b) inside holding onto a handrail to prevent them from taking him into custody. PO Campbell said the second door into the building was locked so that the officers, § 87(2)(b) and 2 or 3 other unknown civilians were standing in the vestibule.

PO Diaz, on the other hand, stated that PO Medina and PO Campbell did not go with him into § 87(2)(b). PO Diaz said that § 87(2)(b) struggled as PO Diaz tried to place him in handcuffs by himself. He was kicking his legs, according to both PO Diaz and PO Campbell, tucking his arms into his body, and was pulling away. § 87(2)(b) also kicked PO Diaz in the shin but it did not hurt. When § 87(2)(b) was pulling away he threw PO Diaz down the stairs and accidentally fell down the stairs, too. § 87(2)(b) told PO Diaz, "Get off of me. I'm gonna fuck you up." While § 87(2)(b) was still on the ground, PO Diaz placed him in cuffs. PO Diaz's back was towards the first door and did not see when throughout the course of the struggle the other officers entered the vestibule, but estimated that it took those officers about 3 to 5 minutes to come over. PO Diaz said that officers helped pick § 87(2)(b) up off of the floor because § 87(2)(b) was throwing his weight down and was "flailing like a fish." However, PO Campbell stated that he assisted by grabbing § 87(2)(b)'s feet to stop him from kicking, which "slowed § 87(2)(b) down." PO Campbell did not mention § 87(2)(b) or PO Diaz falling to the ground at any point. PO Medina stated that he eventually entered the building vestibule because the crowd was "almost on top of the entrance of the building" and he wanted to make sure none of them got inside. PO Medina did not believe that 40 to 50 people could fit in the building vestibule and stated that the crowd remained outside.

PO Diaz, PO Medina, and PO Campbell all stated that § 87(2)(b) was present while § 87(2)(b) was being apprehended in § 87(2)(b) and that she punched and hit some of the officers. PO Diaz said that she hit him (PO Diaz) in the face and chest but did not cause him injury. PO Campbell said that she hit him in the head and in the arm but it did not hurt. PO Medina believed that § 87(2)(b) was shouting, "That's my son, let him go!" and punched PO Anthony Vitale in the chest four times. PO Diaz, PO Medina, and PO Campbell denied using any physical force against § 87(2)(b) in front of § 87(2)(b) and denied seeing any other officers do that. PO Diaz did not hear § 87(2)(b) complain of any injuries. PO Diaz and PO Campbell did not recognize § 87(2)(b) from his driver's license photo and PO Medina did not remember any elderly males being present at the scene.

§ 87(2)(b) was removed from the building and transported to the 77th Precinct in one of the police vehicles. At the 77th Precinct, PO Medina said § 87(2)(b) continued to resist and kick at the officers and when he was in the holding cell he threatened to light the other prisoners on fire. ESU was called and § 87(2)(b) calmed down once they arrived. According to PO Campbell, § 87(2)(b) arrived at the stationhouse and the sergeant on duty instructed him and another officer to arrest her because she assaulted numerous officers at § 87(2)(b). In lieu of being arrested, § 87(2)(b) received a summons, after being placed in a holding cell for about ten minutes until she calmed down.

PO Peter Stark

PO Peter Stark was interviewed at the CCRB on January 28, 2008 (Enclosure 18a-b). On May 26, 2007, he worked the hours of 2315x0750, was dressed in uniform, and was assigned to the robbery auto with PO Anthony Vitale. He had no memo book entries regarding the incident.

At approximately 12:20 AM, PO Stark and PO Vitale responded to a 10-85 at the location on § 87(2)(b). There was the second or third car at the scene, but he did not know which officers were already present. There were about 100 civilians screaming in the street. PO Stark saw two officers following § 87(2)(b) across the street. PO Stark was unsure who those two officers were but said they are from the 77th Precinct but work day tours, and that day were doing an overlapping tour. § 87(2)(b) was walking "pretty fast."

The two officers caught up to § 87(2)(b) when he reached § 87(2)(b). The officers were locked in the vestibule of the building with § 87(2)(b) and about five other civilians. PO Stark, PO Vitale, and a majority of the crowd followed over and stood at the front of the building. PO Stark saw that the officers

were busy trying to effect § 87(2)(b)'s arrest but PO Stark could not hear what was going on inside because the door was closed and locked. PO Stark did not see an elderly man in front of the building and stated there were so many people that no one in particular stood out to him. He did not see anyone fall to the ground outside, nor did he see an officer use physical force against an elderly man.

After about 2 minutes, one of the officers opened the front door and let PO Stark and PO Vitale inside. PO Stark immediately grabbed one of § 87(2)(b)'s arms and another officer restrained the other arm because § 87(2)(b) was flailing his arms around, refusing to put his arms behind his back, and screaming. PO Stark did not interact with § 87(2)(b) long enough to know whether or not § 87(2)(b) was under the influence or intoxicated. § 87(2)(b) was eventually handcuffed after about two minutes. PO Stark did not remember a female civilian hitting or punching an officer or in particular, PO Vitale. PO Stark did not see § 87(2)(b) being put in a police car; his back was towards the officers as § 87(2)(b) was being led away, to protect the officers from the crowd of people. An officer told all of the other officers to leave, so PO Stark and PO Vitale left the scene. PO Stark believed they took another job after that and denied seeing § 87(2)(b) at the stationhouse again that day.

PO Anthony Vitale

PO Anthony Vitale was interviewed at the CCRB on December 4, 2007 (Enclosure 20a-b). On May 26, 2007, he worked the hours of 2315x0750 and was assigned to the robbery auto. He was dressed in uniform and was partnered with PO Stark. He had no memo book entries regarding the incident.

PO Vitale stated that an officer put over a 10-85 for an extra vehicle because of a large crowd. He did not remember how long it took to get to the location but said that when he and PO Stark arrived, the crowd was "diffused." He got out of the RMP and stood there. He observed a Black male, already in handcuffs, yelling and being belligerent. PO Vitale did not know which other officers were there. He did not remember entering § 87(2)(b) and denied using force against or seeing other officers use force against § 87(2)(b) or § 87(2)(b). PO Vitale did not see any female civilians hit or punch the responding officers and he did not remember if he went to the 77th Precinct stationhouse after leaving the location.

Sgt. Georgina Gonzalez

Sgt. Gonzalez was interviewed at the CCRB on January 28, 2008 (Enclosure 22a-b). On May 26, 2007, she worked the hours of 2305x0802 and was assigned to patrol. She was dressed in uniform, partnered with PO Bernard McCaffrey, and was assigned to a marked car. She had no memo book entries regarding the incident.

At approximately 12:20 AM, an unknown officer called over a 10-85 at § 87(2)(b) in Brooklyn. Sgt. Gonzalez and PO Bernard McCaffrey responded to the location. As Sgt. Gonzalez approached the scene she saw "a lot of officers" getting into the RMPs and leaving the location. She estimated about five to ten officers were there, including PO Stark and PO Vitale, and about six or seven police vehicles. The group of civilians had "pretty much dispersed." Sgt. Gonzalez did not verify an arrest at the scene and did not see any civilians in handcuffs.

Sgt. Gonzalez and PO McCaffrey left the scene and about three to five minutes later, a call came over from central dispatch requesting that Sgt. Gonzalez 10-3 [call dispatcher by telephone]. When she did so she was informed that a gentleman on the 2nd or 3rd floor of § 87(2)(b) was injured, claiming that he was assaulted by the police. Central requested her to respond and she arrived at § 87(2)(b)'s address within five minutes.

Upon arriving at his apartment, Sgt. Gonzalez found § 87(2)(b) to be intoxicated and incoherent. § 87(2)(b) was not visibly injured and did not complain to her of any injuries. He was not saying anything, except that he wanted to go to sleep. Sgt. Gonzalez asked him what happened but he refused to speak to her. She asked him if he was injured or if he wanted medical attention, but he refused the medical attention and said

he was fine. Sgt. Gonzalez then went 10-98 from the location, returned to the 77th Precinct stationhouse, called IAB, and informed them what happened with § 87(2)(b)

Officers not interviewed

§ 87(2)(g)

Police Documents

Sprints (Enclosure 24a-d)

Sprint #§ 87(2)(b) indicates that at approximately 12:33 AM on May 26, 2007, a 10-68 “see complainant” at § 87(2)(b) in Brooklyn was put over the air by the 77th Precinct suppression auto. The suppression auto, in car 1276, made an arrest at 12:34 AM. At 12:35 AM, the 77th Precinct robbery auto, SP6, arrived on scene and two minutes later radioed that there was a large crowd but no further units were needed. The arrest was verified at 12:41 AM.

Sprint #§ 87(2)(b) indicates that at approximately 12:40 AM on May 26, 2007, a 10-34 “assault in progress” at § 87(2)(b) in Brooklyn was reported by a male caller named § 87(2)(b). PO Angeliqu Falcon from IAB was notified at 12:42 AM and an ambulance was dispatched to the location at 12:43 AM. Male caller § 87(2)(b) stated that an elderly man, § 87(2)(b) was knocked to the floor two times by the police. PO Falcon, at 12:50 AM, requested a patrol supervisor to the location and to call IAB after. The 79th Precinct sergeant is shown as going 10-98 “resuming patrol” at 12:55 AM. The ambulance arrived at 1:05 AM and at 1:40 AM, the 77th Precinct sergeant was at § 87(2)(b)'s residence but did not put over a final disposition.

Summary of 911 CD (Enclosure 23)

§ 87(2)(b) called 911 and stated that the police knocked down § 87(2)(b) two times and § 87(2)(b)'s back was hurt. The officers had just left. The 911 operator called IAB and connected to PO Angeliqu Falcon and an ambulance was dispatched to scene.

§ 87(2)(b) then got on the phone with PO Falcon. § 87(2)(b) said that the cops dragged him out of the doorway and that they grabbed him by the neck and pulled him out of the way. They dragged him across the steps and threw him on the sidewalk. He said the uniformed officers were from the precinct but could not describe what they looked like and when asked to do so he shouted, “They looked like police officers!” § 87(2)(b) said there about ten white male officers there, but then he said there were twenty officers. He said the officers threatened him. When PO Falcon asked what the officers said, § 87(2)(b) became irate, yelling, “I don’t know what they said!” § 87(2)(b) stated that he lives in a black neighborhood, “Cops don’t like black people,” “They come and do that shit,” and “How the fuck do I know what they said?” § 87(2)(b) was slurring his words during the call. The call was then disengaged a few minutes later.

Stop, Question, and Frisk Log

According to the May 26, 2007 stop, question, and frisk log, reports were not completed for any of the men § 87(2)(b) was with (Enclosure 28).

Command Log

The 77th Precinct command log shows that § 87(2)(b) was logged in at 12:56 AM (Enclosure 26). He was arrested at § 87(2)(b) by PO Diaz for § 87(2)(b). § 87(2)(b)'s physical/mental condition is marked as “good/intox.” He was taken to Brooklyn Central Booking at 11:20 AM.

The command log also shows that § 87(2)(b) was logged in at 1:30 AM as an arrest for § 87(2)(b) at the 77th Precinct. § 87(2)(b) was released at 2:35 AM with C-summons #§ 87(2)(b)

Summons

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Criminal Charges

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Complainant and Victim's Criminal Conviction History (Enclosure 29)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Complainant and Victim's CCRB History (Enclosures 2 and 3)

§ 87(2)(b) has filed one other complaint with the CCRB, § 87(2)(b) and § 87(2)(b) have no previous CCRB complaints.

Officers' CCRB History

PO Daniel Diaz, a two year member of the NYPD, has not been the subject of any substantiated CCRB allegations (Enclosure 1).

Conclusions and Recommendations

Undisputed Facts

On May 26, 2007, at approximately 12:20 AM, PO Diaz, PO Medina, and PO Campbell believed that § 87(2)(b) and his friends were drinking in public and subsequently questioned § 87(2)(b)'s friends and stopped § 87(2)(b). A crowd began to form and § 87(2)(b) left the scene and entered his building, § 87(2)(b). Officers followed § 87(2)(b) and apprehended him inside the vestibule of § 87(2)(b) where they placed him under arrest.

Facts in Dispute

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Assessment of Evidence

§ 87(2)(b) alleged that PO Diaz accused him drinking alcohol in public and when § 87(2)(b) denied this, PO Diaz eventually asked him for his identification. § 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: PO Daniel Diaz questioned individuals in the vicinity of § 87(2)(b) in Brooklyn.

§ 87(2)(b) alleged that PO Diaz questioned him and his three friends, asking, “What’s going on guys? You all been drinking?” However, § 87(2)(b) would not disclose names or contact information for those friends and no stop, question, and frisk reports were completed on the incident date and at the location. PO Diaz, PO Medina, and PO Campbell did not mention filling out stop, question, and frisk reports for the men, and PO Campbell stated that they never even provided their identification. § 87(2)(g)

Allegation B: PO Daniel Diaz stopped § 87(2)(b) in the vicinity of § 87(2)(b) in Brooklyn.

§ 87(2)(b) alleged that PO Diaz asked him to show his identification because PO Diaz accused him of drinking alcohol outside. PO Diaz, PO Medina, and PO Campbell corroborate this allegation, stating that § 87(2)(b) appeared to have been drinking in public, which is a criminal offense. § 87(2)(g)

Allegation C: Officers used physical force against § 87(2)(b) outside of § 87(2)(b) in Brooklyn. Allegation D: An officer used physical force against § 87(2)(b) at the 77th Precinct stationhouse.

§ 87(2)(b) alleged that officers knocked him down in front of § 87(2)(b). § 87(2)(b) alleged that an officer dragged him § 87(2)(b) at the 77th Precinct stationhouse. Neither § 87(2)(b) nor witnesses to

the alleged force could give physical descriptions of the officers who knocked § 87(2)(b) down. None of the officers at the scene admitted to using any force against § 87(2)(b). In regards to the stationhouse, § 87(2)(b) could not describe the officer who dragged him and he could not describe where or when in the stationhouse this occurred. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: